

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

KIP LAMAR SNELL,)
)
Plaintiff,)
)
v.) **Case No. 1:07-cv-898-MHT**
)
CITY OF SLOCOMB, ALABAMA,)
)
Defendant.)

MOTION FOR LEAVE TO AMEND ANSWER

Defendant the City of Slocumb, Alabama, moves for leave to amend its answer to the plaintiff's complaint.

1. This motion is timely, as the scheduling order allows the defendant to file a motion for leave to amend the pleadings on or before February 22, 2008. (See Doc. at 11 at 2, § 4.)

2. No depositions have been taken, so the plaintiff will not be prejudice by allowance of the amended pleading.

3. A copy of the proposed amended answer is attached to this motion.

WHEREFORE, the City of Slocumb respectfully moves for leave to file its proposed amended answer.

s/ James H. Pike

James H. Pike (PIK003)
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The City of Slocumb, Alabama

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CERTIFICATE OF SERVICE

I, James H. Pike, certify that on February 22, 2008, I electronically served this document upon:

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s/ James H. Pike

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AMENDED ANSWER TO COMPLAINT

Defendant the City of Slocumb, Alabama, amends its answer to the plaintiff's complaint to state as follows:

INTRODUCTION

1. The City of Slocumb denies the allegations of Paragraph 1.

JURISDICTION AND VENUE

2. The City of Slocumb admits the Court has subject matter jurisdiction over the plaintiff's claims, but denies the substantive allegations of the complaint.

3. The City of Slocumb admits venue is proper, but denies the substantive allegations of the complaint.

PARTIES

4. The City of Slocumb admits it employed the plaintiff in its police department, but is without knowledge or information sufficient to form a belief as to the remaining averments of Paragraph 4. Therefore, they are denied.

5. The City of Slocomb admits it is a municipality within Geneva County, Alabama.

COUNT I

6. The City of Slocomb denies the allegations of Paragraph 6.
7. The City of Slocomb denies the allegations of Paragraph 7.
8. The City of Slocomb denies the allegations of Paragraph 8.
9. The City of Slocomb denies the allegations of Paragraph 9.
10. The City of Slocomb denies the allegations of Paragraph 10.
11. The City of Slocomb denies the allegations of Paragraph 11.

FIRST DEFENSE

The City of Slocomb denies all of the material allegations of the plaintiff's complaint.

SECOND DEFENSE

The City of Slocomb pleads the plaintiff was exempt from the overtime provisions of the Fair Labor Standards Act.

THIRD DEFENSE

The City of Slocomb pleads the plaintiff failed to exhaust applicable contractual and/or administrative remedies.

FOURTH DEFENSE

The City of Slocomb pleads that it acted in good faith.

FIFTH DEFENSE

The City of Slocomb pleads that it acted with a reasonable belief that its conduct was lawful.

SIXTH DEFENSE

The City of Slocomb pleads release.

SEVENTH DEFENSE

The City of Slocomb pleads accord and satisfaction.

EIGHTH DEFENSE

The City of Slocomb pleads waiver.

NINTH DEFENSE

The City of Slocomb pleads failure to mitigate.

TENTH DEFENSE

The City of Slocomb pleads the statute of limitations.

ELEVENTH DEFENSE

The City of Slocomb pleads estoppel.

TWELFTH DEFENSE

The City of Slocomb pleads 29 U.S.C. § 213(a)(1).

THIRTEENTH DEFENSE

The City of Slocomb pleads 29 U.S.C. § 213(b)(20).

FOURTEENTH DEFENSE

The City of Slocomb pleads immunity.

FIFTEENTH DEFENSE

The City of Slocomb pleads setoff.

SIXTEENTH DEFENSE

The City of Slocomb pleads the plaintiff was employed in a bona fide executive capacity.

SEVENTEENTH DEFENSE

The City of Slocomb pleads the plaintiff was employed in a bona fide administrative capacity.

EIGHTEENTH DEFENSE

The City of Slocomb pleads 29 U.S.C. § 213.

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